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Notice of Allowability	Application No.	Applicant(s)	
	10/036,691	TAYLOR, FREDRICK	
	Examiner	Art Unit	
	Steven D. Maki	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4-11-05.
2. ☒ The allowed claim(s) is/are 5,8-12,15 and 17-20.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 6/111903.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>042505</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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Extension of Time

1) An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 4-21-05, Todd Deveau requested an extension of time for TWO MONTH(S) and authorized the Director to charge Deposit Account No. 20-0778 the required fee of \$165 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Examiner's Amendment

2) An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In claim 18:

line 1 change "Claim 17" to --Claim 12--

line 1 after "further" insert --comprising--

line 2 delete --consisting of--

In claims 8, 11, 12, 15 and 19:

change "(previously amended)" to --(previously presented)--

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- 3) Authorization for this examiner's amendment was given in a telephone interview with Todd Deveau on 4-21-05.

Reasons for Allowance

- 4) The following is an examiner's statement of reasons for allowance:

The prior art rejections set forth in the last office action dated 12-10-04 have been withdrawn in view of applicant's arguments in the response filed 4-11-05. It is emphasized that (1) page 8 of the original disclosure describes "Ethylene Propylene Rubber" *whereas* page 9 of the original disclosure describes "Antiozonant Preferably EPDM Particle" and (2) applicant states "... none of the cited references teaches or suggests ethylene propylene rubber (EPR). The Office Action relies on Sandstrom as teaching EPDM (ethylene-propylene terpolymer). EPDM, however, is not ethylene-propylene rubber (EPR) recited in the claims. According to The Condensed Chemical Dictionary, ethylene-propylene rubber (EPR) is an elastomer made by the stereospecific copolymerization of ethylene and propylene. EPR cannot be vulcanized with sulfur, but can be cured with peroxides. In contrast, according to The Condensed Chemical Dictionary, EPDM is an elastomer based on stereospecific linear terpolymers of ethylene, propylene and small amounts of a nonconjugated diene. EPDM can be vulcanized with sulfur. Thus, EPR is co-polymer and EPDM is a terpolymer. A copy of these definitions from the Condensed Chemical Dictionary is enclosed." (pages 4-5 of response filed 4-11-05 / emphasis in original).

Although Bond et al discloses a tire tread comprising ethylene-propylene rubber and carbon black with natural rubber, polybutadienes and/or styrene-butadiene

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copolymers (col. 1 lines 17-23, col. 1 lines 59-68, col. 2 lines 1-3, col. 2 lines 26-30, col. 2 lines 60-68, and example 8), the prior art of record (including Bond et al, Great Britain 870, Europe 137, Japan 104, Sandstrom and Kirk-Othmer), when considered as a whole, fails to suggest either (1) "a non-marking tread cap, the composition of the tread cap comprising between 30-70 parts of natural rubber and synthetic rubber, 20-50 parts of ethylene propylene rubber, 11-60 parts of carbon black, 11-60 parts of white carbon, and 7.5-12.5 parts of rubber oil, the parts being parts by weight of the tread cap" (claim 5 / emphasis added) or (2) "a non-marking tread cap, wherein the tread cap consists of natural and synthetic rubber, ethylene propylene rubber, polybutadiene rubber, carbon black, white carbon, rubber oil, zinc oxide, tackifier, microcrystallized wax, antioxidant, antiozonant, and optionally stearic acid, sulphemamide, mercapto benzothiazole, thiuram, insoluble Sulfur and Sulfur" (claim 5 / emphasis added).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
April 25, 2005


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
AV 1733 4-26-05